

Member  
To Be Duly Acknowledged  
[56 FR 2253, Jan. 22, 1991]

### Subpart F—Congregate Housing Services Program

SOURCE: 61 FR 42943, 42949, Aug. 19, 1996, unless otherwise noted.

#### § 1944.251 Purpose.

The requirements of this subpart augment the requirements of section 802 of the National Affordable Housing Act of 1990 (approved November 28, 1990, Public Law 101-625) (42 U.S.C. 8011), (hereinafter, section 802), as amended by the Housing and Community Development Act of 1992 (Public Law 102-550, approved October 28, 1992), which authorizes the Congregate Housing Services Program (hereinafter, CHSP or Program).

#### § 1944.252 Definitions.

In addition to the definitions in section 802(k), the following definitions apply to CHSP:

*Activity of Daily Living (ADL)* means an activity regularly necessary for personal care.

(1) The minimum requirements of ADLs include:

(i) Eating (may need assistance with cooking, preparing or serving food, but must be able to feed self);

(ii) Dressing (must be able to dress self, but may need occasional assistance);

(iii) Bathing (may need assistance in getting in and out of the shower or tub, but must be able to wash self);

(iv) Grooming (may need assistance in washing hair, but must be able to take care of personal appearance);

(v) Getting in and out of bed and chairs, walking, going outdoors, using the toilet; and

(vi) Household management activities (may need assistance in doing housework, grocery shopping or laundry, or getting to and from one location to another for activities such as going to the doctor and shopping, but must be mobile. The mobility require-

ment does not exclude persons in wheelchairs or those requiring mobility devices.)

(2) Each of the Activities of Daily Living noted in paragraph (1) of this definition includes a requirement that a person must be able to perform at a specified minimal level (e.g., to satisfy the eating ADL, the person must be able to feed himself or herself). The determination of whether a person meets this minimal level of performance must include consideration of those services that will be performed by a person's spouse, relatives or other attendants to be provided by the individual. For example, if a person requires assistance with cooking, preparing or serving food plus assistance in feeding himself or herself, the individual would meet the minimal performance level and thus satisfy the eating ADL, if a spouse, relative or attendant provides assistance with feeding the person. Should such assistance become unavailable at any time, the owner is not obligated at any time to provide individualized services beyond those offered to the resident population in general. The Activities of Daily Living analysis is relevant only with regard to determination of a person's eligibility to receive *supportive services* paid for by CHSP and is not a determination of eligibility for occupancy;

*Adjusted income* means adjusted income as defined in 24 CFR parts 813 or 913.

*Applicant* means a State, Indian tribe, unit of general local government, public housing authority (PHA), Indian housing authority (IHA) or local nonprofit housing sponsor. A State, Indian tribe, or unit of general local government may apply on behalf of a local nonprofit housing sponsor or a for-profit owner of eligible housing for the elderly.

*Area agency on aging* means the single agency designated by the State Agency on Aging to administer the program described in Title III of the Older Americans Act of 1965 (45 CFR chapter 13).

*Assistant Secretary* means the HUD Assistant Secretary for Housing-Federal Housing Commissioner or the HUD Assistant Secretary for Public and Indian Housing.

*Case management* means implementing the processes of: establishing linkages with appropriate agencies and service providers in the general community in order to tailor the needed services to the program participant; linking program participants to providers of services that the participant needs; making decisions about the way resources are allocated to an individual on the basis of needs; developing and monitoring of case plans in coordination with a formal assessment of services needed; and educating participants on issues, including, but not limited to, supportive service availability, application procedures and client rights.

*Eligible housing for the elderly* means any eligible project including any building within a mixed-use project that was designated for occupancy by elderly persons, or persons with disabilities at its inception or, although not so designated, for which the eligible owner or grantee gives preference in tenant selection (with HUD approval) for all units in the eligible project (or for a building within an eligible mixed-use project) to eligible elderly persons, persons with disabilities, or temporarily disabled individuals. For purposes of this subpart, this term does not include projects assisted under the Low-Rent Housing Homeownership Opportunity program (Turnkey III (24 CFR part 905, subpart G)).

*Eligible owner* means an owner of an eligible housing project.

*Excess residual receipts* mean residual receipts of more than \$500 per unit in the project which are available and not committed to other uses at the time of application to HUD for CHSP. Such receipts may be used as matching funds and may be spent down to a minimum of \$500/unit.

*For-profit owner of eligible housing for the elderly* means an owner of an eligible housing project in which some part of the project's earnings lawfully inure to the benefit of any private shareholder or individual.

*Grantee or Grant recipient* means the recipient of funding under CHSP. Grantees under this Program may be states, units of general local government, Indian tribes, PHAs, IHAs, and local nonprofit housing sponsors.

*Local nonprofit housing sponsor* means an owner or borrower of eligible housing for the elderly; no part of the net earnings of the owning organization shall lawfully inure to the benefit of any shareholder or individual.

*Nonprofit* includes a public housing agency as that term is defined in section 3(b)(6) of the United States Housing Act of 1937.

*Person with disabilities* means a household composed of one or more persons, at least one of whom is an adult who has a disability.

(1) A person shall be considered to have a disability if such person is determined under regulations issued by the Secretary to have a physical, mental, or emotional impairment which:

(i) Is expected to be of long-continued and indefinite duration;

(ii) Substantially impedes his or her ability to live independently; and

(iii) Is of such a nature that the person's ability could be improved by more suitable housing conditions.

(2) A person shall also be considered to have a disability if the person has a developmental disability as defined in section 102(5) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001-7). Notwithstanding the preceding provisions of this paragraph, the terms *person with disabilities* or *temporarily disabled* include two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary of HUD) to be essential to their care or well-being, and the surviving member or members of any household where at least one or more persons was an adult with a disability who was living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

*Program participant* (participant) means any project resident as defined in section 802(e)(1) who is formally accepted into CHSP, receives CHSP services, and resides in the eligible housing project served by CHSP grant.

*Qualifying supportive services* means those services described in section 802(k)(16). Under this Program, *health-*

*related services* mean non-medical supervision, wellness programs, preventive health screening, monitoring of medication consistent with state law, and non-medical components of adult day care. The Secretary concerned may also approve other requested supportive services essential for achieving and maintaining independent living.

*Rural Housing Service* (RHS) means a credit agency for rural housing and rural development in the U.S. Department of Agriculture (USDA).

*Secretary concerned* means (1) The Secretary of Housing and Urban Development, with respect to eligible federally assisted housing administered by HUD; and

(2) The Secretary of Agriculture with reference to programs administered by the Administrator of the Rural Housing Service.

*Service coordinator* means CHSP staff person responsible for coordinating Program services as described in section 1944.130.

*Service provider* means a person or organization licensed or otherwise approved in writing by a State or local agency (e.g., Department of Health, Department of Human Services or Welfare) to provide supportive services.

*State agency* means the State or an agency or instrumentality of the State.

*State agency on aging* means the single agency designated by the Governor to administer the program described in Title III of the Older Americans Act of 1965 (See 45 CFR part 13).

**§ 1944.253 Notice of funding availability, application process and selection.**

(a) *Notice of funding availability.* A Notice of Funding Availability (NOFA) will be published periodically in the FEDERAL REGISTER by the Secretary concerned containing the amounts of funds available, allocation or distribution of funds available among eligible applicant groups, where to obtain and submit applications, the deadline for submissions, and further explanation of the selection criteria, review and selection process. The Secretary concerned will designate the maximum allowable size for grants.

(b) *Selection criteria* are set forth in section 802(h)(1) and shall include addi-

tional criteria specified by the Secretary concerned.

**§ 1944.254 Program costs.**

(a) *Allowable costs.* (1) Allowable costs for direct provision of supportive services includes the provision of supportive services and others approved by the Secretary concerned for:

(i) Direct hiring of staff, including a service coordinator;

(ii) Supportive service contracts with third parties;

(iii) Equipment and supplies (including food) necessary to provide services;

(iv) Operational costs of a transportation service (e.g., mileage, insurance, gasoline and maintenance, driver wages, taxi or bus vouchers);

(v) Purchase or leasing of vehicles;

(vi) Direct and indirect administrative expenses for administrative costs such as annual fiscal review and audit, telephones, postage, travel, professional education, furniture and equipment, and costs associated with self evaluation or assessment (not to exceed one percent of the total budget for the activities approved); and

(vii) States, Indian tribes and units of general local government with more than one project included in the grant may receive up to 1% of the total cost of the grant for monitoring the projects.

(2) Allowable costs shall be reasonable, necessary and recognized as expenditures in compliance with OMB Cost Policies, i.e., OMB Circular A-87, 24 CFR 85.36, and OMB Circular A-128.

(b) *Nonallowable costs.* (1) CHSP funds may not be used to cover expenses related to any grantee program, service, or activity existing at the time of application to CHSP.

(2) Examples of nonallowable costs under the program are:

(i) Capital funding (such as purchase of buildings, related facilities or land and certain major kitchen items such as stoves, refrigerators, freezers, dishwashers, trash compactors or sinks);

(ii) Administrative costs that represent a non-proportional share of costs charged to the Congregate Housing Services Program for rent or lease, utilities, staff time;